**THE HONOURABLE SRI JUSTICE C.V.RAMULU**

**W.P.No.5344 of 1997**

**Dated:06-03-2007**

**Between:**

A.Sri Ramulu.

**…..PETITIONER**

AND

Electronics Corporation of India Ltd.,
Rep by Deputy General Manager (P&A),
Nacharam, Hyderabad.

**….RESPONDENTS**

**THE HONOURABLE SRI JUSTICE C.V.RAMULU**

**W.P.No.5344 of 1997**

**ORDER:**

This writ petition is filed seeking a Mandamus declaring the action of the respondent in denying full salary to the petitioner for the period of suspension from 26-2-1994 to 14-11-1996 as arbitrary, illegal and unreasonable.

It appears the petitioner was a regular cook in the canteen maintained by the Electronics Corporation of India Limited, Nacharam, Hyderabad. While so, the petitioner was involved in a Criminal Case S.C.No.22 of 1991, on the file of the Additional Sessions Judge, Ranga Reddy District. In view of the same, petitioner was placed under suspension during the pendency of the criminal case with effect from
26-2-1994. Here, it may be noticed that the criminal case involved arose outside the employment. It seems the petitioner was acquitted in the criminal case on 16-10-1996. In view of his acquittal the respondents reinstated the petitioner into service on 16-12-1996. However, while revoking the suspension and reinstating the petitioner it was stated that the petitioner was not entitled for any difference of wages except the subsistence allowance paid during that period. Further, the petitioner is also not entitled for any increments due during that period and further the suspension period was treated as *dies non*. Aggrieved by the same, the present writ petition is filed.

A detailed counter affidavit has been filed denying the allegations made by the petitioner and further it is asserted that the petitioner is not entitled for any wages during the period from 26-2-1994 to 16-12-1996 except the subsistence allowance already paid. Since it is his own making i.e., he involved in a criminal case and he did not work during that period therefore he is neither entitled for full wages nor for any of the benefits for the interregnum period 26-2-1994 to 16-12-1996. The subsistence allowances were paid to the petitioner in view of the regulations by which he is governed otherwise he could have been denied even the payment of the subsistence allowance also. Since the petitioner was involved for no fault of the company, the company cannot be subjected to any payment other than what is contemplated under regulations

viz., subsistence allowance. Even under the standing orders applicable to the petitioner the petitioner cannot claim any salary for the period of his absence. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

Heard the learned counsel on both sides.

Learned counsel for the petitioner stated that once the subsistence allowance is paid and the suspension is revoked with effect from 16-12-1996, may be the petitioner is not entitled for full wages, but the period between 26-2-1994 till 16-2-1996 cannot be treated as *dies non* for the purpose of other benefits and continuation of service. I am in full agreement with the submissions made by the learned counsel for the petitioner. Once the subsistence allowance is not denied and paid as per the regulations, it must be deemed that the petitioner was in continuous service and therefore he is entitled for the benefit except the full salary as was denied by the respondent company. Since the crime is out side the employment the continuity of service and other benefits like increments cannot be denied to the petitioner simply because he did not work during that period. The relationship of employer and employee never seized. In those circumstances, the impugned order to the extent of treating the period from 26-2-1994 to 16-12-1996 as *dies non* is set aside and the petitioner is entitled for continuous of service during the period from 26-2-1994 to 16-12-1996 and is also entitled for increments etc., accrued during that period notionally.

With the above direction, the writ petition is disposed of. There shall be no orders as to costs.

_____

**(C.V.RAMULU,J**

Date: 06-03-2007
Grk

**THE HONOURABLE SRI JUSTICE C.V.RAMULU**

**W.P.No.5344 of 1997**

**Dated:06-03-2007**